

GENERAL COUNSEL'S OPINION NUMBER 55-5, DATED 14 FEBRUARY 1955

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The Agency may pay the expenses of the movement of the household and personal effects of an employee who is stationed overseas from his place of residence to a place of temporary storage within the United States when this movement is incident to the shipment of the effects to the overseas station and is occasioned by a strike of transportation facilities within the city of origin which prevents the adherence to the shipping schedule of the effects prescribed by the Agency.

TO THE CHIEF, TRAVEL SECTION, FINANCE DIVISION

OGC HAS REVIEWED.

1. In your memorandum you request the opinion of this office as to the propriety of reimbursement of Mr. S for charges incurred incident to the movement of certain of his household goods and personal effects (hereinafter termed effects) from his home to a temporary place of storage prior to the departure of his dependents for overseas.

2. Apparently Mr. S already was at his overseas station and the transaction occurred incident to his wife's leaving for the station in order to join him. Mrs. S was given a date upon which she should leave her home for New York for further transportation overseas. Prior to her departure she had to see to it that the family's effects were ready for shipment and gotten on their way. She made appropriate arrangements with a moving company. But four days prior to her scheduled departure, she was informed by the moving company that they would be unable to crate and lift the effects due to a teamster's strike in the city. Thereupon she arranged to have the effects transported to the garage belonging to a friend from whence they could be picked up at the conclusion of the strike. This service cost her \$53.56 and so far as the records show, she departed on schedule and left the effects in the garage.

3. Against this background, Mr. S requested that the Government reimburse him for the sum paid the first mover on the grounds that his wife's action saved the Agency the trouble of changing the travel plans and stopped the payment of a separation allowance earlier than such payment would have stopped had Mrs. S not met her departure schedule. You have denied reimbursement on the ground that the movement was made for the "personal convenience of the employee".

4. Section 165 of the Foreign Service Travel Regulations provides that the effects of an employee may be stored at Government expense under certain specified "emergency conditions". Among these is listed that of a strike. Section 165.3-a further provides that, among the expenses allowable incident to storage under emergency conditions, are those of the:

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"Cartage of the effects from the residence. . .to the place of storage."

It is this particular charge which S seeks to recover from the Agency.

5. Clearly this regulation extends to the stoppage in transit of the effects due to one of the conditions indicated. We think it has equal application to the inability to get the effects in transit once the transportation schedule has been established by the Agency, the employee (or, in this case, his dependent) has taken action in reliance thereon and the Agency has taken no steps to alter the transportation schedule. For that matter, we do not construe in transit so narrowly as to admit only of the actual movement of the effects between the points of origin and destination. The readying of the effects for transportation is as much a part of the process. In effect, this is all that Mrs. S was doing when she arranged to have them available to be picked up at her friend's garage, an arrangement dictated by an emergency condition.

6. On the basis of the foregoing, it is the opinion of this office that, in the particular circumstances of this case, the claim legally may be paid. Mr. S's memorandum is returned.

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